IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

WP(C).No. 1105 OF 2007(F)

PETITIONER:

M/S. MEENACHIL RUBBER MARKETING &
PROCESSING CO-OPERATIVE SOCIETY LTD.,NO.K.118,
PALA, REPRESENTED BY ITS MANAGING DIRECTOR,
M.N.GOPALAKRISHNA PANICKER.

BY ADV. SRI.V.P.SUKUMAR
SRI.JAIRAM.V.MENON

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER, PALA.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES (D) DEPARTMENT, SECRETARIATE,
THIRUVANANTHAPURAM.

GOVT. PLEADER SRI. SOJAN JAMES.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 1105 OF 2007

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DATED THIS, THE 10TH DAY OF JANUARY, 2007

J U D G M E N T

The prayer made in this writ petition is for a writ of certiorari quashing Ext.P33 circular issued by the Board of Revenue (Taxes) in so far as it holds that centrifuged latex is a rubber product prior to 1.4.1988 and for other consequential reliefs.

2. This is a second round litigation. Earlier, the tribunal, as per the order in TA 385/2001, remanded the case for fresh consideration which was challenged before this Court in S.T.Rev. 108/2006. Ext.P30 is the judgment of the Division Bench in the said revision. After referring to the various contentions raised by the parties, in para 6 of the order, this Court held as follows:

> "In so far as the petitioner's contentions on merits are concerned, we do not think there is any need to consider the same because the Tribunal has left open the petitioner's claim of exemption to be considered with reference to Circular referred to in the order of the Tribunal. It is open to the petitioner to raise all contentions in the revised assessment before the Assessing Officer. Since the assessment relate to the years 1976-77 to 1986-87, we direct the Assessing Authority to revise the assessments after giving an opportunity of hearing

> to the petitioner and after referring to the Circular issued by the Commissioner of Commercial Taxes referred to in the order of the Tribunal within a period of three months from the date of production of a copy of this judgment."

3. Thus, both the Tribunal as well as this Court remanded the case with specific direction to consider the claim of the petitioner for exemption with reference to the circular. For the reason that the circular is in any way bad he would have either raise this contention in the revision or challenge this order further in appeal. In so far as there is already a concluded order of remand passed by this Court with a specific direction to consider the circular and the assessing officer having issued notice pursuant thereto, it cannot be challenged in a writ petition under Article 226 of the Constitution of India and challenge the circular, the effect of which will be to undo the directions issued by this Court in Ext.P30 judgment.

In the circumstances, this writ petition is dismissed.

(Issue photo copy).

P.R. RAMAN,
JUDGE.

knc/-